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DISTRICT OF OREGON

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Attorneys for Tort Claimants Committee

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In re

ROMAN CATHOLIC ARCHBISHOP OF
PORTLAND IN OREGON, AND SUCCESSORS, A
CORPORATION SOLE, DBA THE ARCHDIOCESE
OF PORTLAND IN OREGON,

Debtor.

TORT CLAIMANTS COMMITTEE,

Plaintiff,

v.

ROMAN CATHOLIC ARCHBISHOP OF
PORTLAND IN OREGON, AND SUCCESSORS, A
CORPORATION SOLE, dba THE ARCHDIOCESE
OF PORTLAND IN OREGON; JOHN RICKMAN,
GLENN PELIKAN and JOHNSTON MITCHELL,
individually and on behalf of all others similarly
situated; ST. ANDREWS CHURCH (PORTLAND),
as represented by its pastor, REV. CHARLES
LIENERT, ST. ANTHONY CHURCH (TIGARD), as
represented by its pastor, REV. LESLIE M. SIEG, and
ST. JUAN DIEGO CHURCH, as represented by its

Case No. 04-37154-elp11

Adv. Proc. No. 04-03292-elp

**TORT CLAIMANTS
COMMITTEE'S RESTATED
SECOND MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

pastor, REV. JOHN KERNS, individually and on
 behalf of all parishes; COMMITTEE OF CATHOLIC
 PARISHES, PARISHIONERS AND INTERESTED
 PARTIES; CENTRAL CATHOLIC HIGH SCHOOL
 PARENTS' ASSOCIATION; CENTRAL CATHOLIC
 HIGH SCHOOL ALUMNI ASSOCIATION;
 PHOEBE JOAN O'NEILL; MARIST HIGH SCHOOL
 PARENTS AND ALUMNI SERVICE CLUB;
 FRIENDS OF REGIS HIGH SCHOOL; MARIST
 HIGH SCHOOL FOUNDATION, an Oregon non-
 profit corporation; CATHOLIC YOUTH
 ORGANIZATION/CAMP HOWARD, an Oregon
 non-profit corporation; the ST. ELIZABETH PARISH
 OF PORTLAND, OREGON, an Oregon non-profit
 corporation; THE MISSIONARIES OF THE HOLY
 SPIRIT, a California corporation; REGIS
 ASSOCIATION; REGIS HIGH SCHOOL
 FOUNDATION, an Oregon non-profit corporation,

Defendants.

Pursuant to Bankruptcy Rule 7056 and Federal Rule of Civil Procedure 56,
 the Tort Claimants Committee moves for an order granting it partial summary judgment as
 follows:


1. Dismissing Debtor's Third Affirmative Defense (Lack of Subject
 Matter Jurisdiction) and any similar affirmative defense alleged in response to the First
 Amended Complaint;
2. Dismissing Debtor's Fifth Affirmative Defense (Religious Freedom)
 and any similar affirmative defense alleged in response to the First Amended Complaint;
3. Dismissing Central Catholic High School Alumni and Parents
 Association's Third Affirmative Defense (Religious Freedom) and any similar affirmative
 defense alleged in response to the First Amended Complaint.
4. Declaring that Debtor's parishes and schools have no legal existence
 separate from or independent of Debtor and do not have the capacity to sue or be sued.

This motion is supported by the Tort Claimants Committee's Memorandum in
 Support of Second Motion for Partial Summary Judgment, the Tort Claimants Committee's

1 Amended Concise Statement of Material Facts, the Declaration of Timothy J. Conway in
2 Support of Tort Claimants Committee's Second Motion for Partial Summary Judgment, the
3 Tort Claimants Committee's Appendix in Support of Second Motion for Partial Summary
4 Judgment, the Affidavit of Malcolm Newkirk in Support of Tort Claimants Committee's
5 Motion for Partial Summary Judgment, and the Affidavit of Patricia L. Miller in Support of
6 Tort Claimants Committee's Motion for Partial Summary Judgment.

7 DATED this 27th day of July, 2005.

8 TONKON TORP LLP

9
10 By 
11 ALBERT N. KENNEDY, OSB No. 82142
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **TORT CLAIMANTS COMMITTEE'S RESTATED SECOND MOTION FOR PARTIAL SUMMARY JUDGMENT** on:

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1 ☒ mailing a copy thereof in a sealed, first-class postage prepaid envelope,
2 addressed to each party's last-known address and depositing in the U.S. mail at Portland,
3 Oregon on the date set forth below;

4 ☐ causing a copy thereof to be hand-delivered to each party at each party's
5 last-known address on the date set forth below;


6 ☐ sending a copy thereof via overnight courier in a sealed, prepaid envelope,
7 addressed to each party's last-known address on the date set forth below;

8 ☐ faxing a copy thereof to each party at such party's last-known facsimile
9 number on the date set forth below; or

10 ☐ e-mailing a copy thereof to each party at such party's last-known e-mail
11 address on the date set forth below.

DATED this 27th day of July, 2005.

TONKON TORP LLP

12 By 
13 ALBERT N. KENNEDY, OSB No. 82142
14 TIMOTHY J. CONWAY, OSB No. 85175
Attorneys for Tort Claimants Committee

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